

UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC

Served: March 9, 1993

FAA Order No. 93-5

In the Matter of:

MICHAEL EDWARD WENDT

)
)
) Docket No. CP92GL0418
)
)

DENIAL OF PETITION TO FILE ADDITIONAL BRIEF

By letter addressed to the Hearing Docket Clerk and dated March 8, 1993, counsel for Michael Edward Wendt states:

This is to confirm the agreement that our Reply Brief in the above referenced matter has been extended to Thursday, March 11, 1993. Approval from FAA Counsel Mr. Clarence Butcher was received.

I appreciate your assistance in this matter.

Under the Rules of Practice, the party appealing from the law judge's decision is required to perfect his or her appeal by filing an appeal brief, and the opposing party then has the opportunity to file a reply brief. 14 C.F.R. § 13.233. In this case, only Mr. Wendt appealed from the initial decision. Thus, Mr. Wendt was required to file an appeal brief, which he did, and the agency attorney then filed a reply brief.

The Rules of Practice provide that a party may not file more than one appeal brief or reply brief. 14 C.F.R. § 13.233(f). Regarding supplemental briefs, the Rules of Practice provide as follows:

A party may petition the FAA decisionmaker, in writing, for leave to file an additional brief and shall serve a copy of the petition on each party. The party may not file the additional brief with the petition. The FAA decisionmaker may grant leave to file an additional brief if the party demonstrates good cause for allowing additional argument on the appeal. The FAA decisionmaker will allow a reasonable time for the party to file the additional brief.

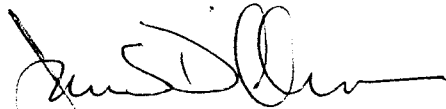
14 C.F.R. § 13.233(f) (emphasis added).

The letter sent by Mr. Wendt's counsel to the Hearing Docket must be construed as a petition for leave to file an additional brief. No good cause for allowing additional argument has been shown.

THEREFORE, IT IS ORDERED THAT:

The petition to file an additional brief is denied.

JOSEPH DEL BALZO
Acting Administrator
Federal Aviation Administration



JAMES S. DILLMAN*
Assistant Chief Counsel

Issued this 9th day of March, 1993.

* Issued under authority delegated to the Chief Counsel and the Assistant Chief Counsel for Litigation by Memorandum dated October 27, 1992, under 49 U.S.C. § 322(b) and 14 C.F.R. § 13.202. See 57 Fed. Reg. 58,280 (1992).